

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FILED

XCOAL ENERGY & RESOURCES,

Plaintiff,

v.

BLUESTONE ENERGY SALES
CORPORATION, SOUTHERN COAL
CORPORATION, and JAMES C.
JUSTICE, II,

Defendants.

MAY 05 2022

U.S. DISTRICT COURT-WVND
CLARKSBURG, WV 26301

C.A. No. 1:18-cv-819 (LPS)

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PROPOSED AMENDMENT TO JUDGMENT (D.I. 167)

In Wilmington this 28th day of September 2021:

After a remote bench trial (D.I. 132-35, 152-55), the Court on March 29, 2021 issued an Opinion (D.I. 162) and Order (D.I. 163) finding in favor of Plaintiff Xcoal Energy & Resources ("Xcoal") and against Defendants Bluestone Energy Sales Corporation ("Bluestone"), Southern Coal Corporation ("SCC"), and James C. Justice, II ("Governor Justice" and, together with Bluestone and SCC, "Defendants"). Thereafter, in accordance with such Opinion and Order, the Court on April 14, 2021 issued a Judgment (D.I. 167) (the "Judgment"), which, *inter alia*, entered judgment in the amount of \$6,814,105.30 against Defendants Bluestone, SCC, and Governor Justice, jointly and severally, and in favor of Xcoal.

On April 28, 2021, Xcoal filed a Motion to Amend Judgment to Include Pre-Judgment and Post-Judgment Interest Pursuant to Rule 59(e) (D.I. 170) and also a Motion for Attorney's Fees and Costs (D.I. 172) (collectively, the "Xcoal Post-Trial Motions").

Subsequently, on May 28, 2021, Defendants filed a Motion for Approval of Bond and to Stay Execution of Judgment (D.I. 189). Defendants' Motion (D.I. 189) attached as Exhibit A

thereto (D.I. 189-2) a Supersedeas Bond (No. K40408460) in the maximum penal sum of \$8,176,927.00 with Defendants as principals and Federal Insurance Company as surety (the "Bond"), which covers satisfaction, *inter alia*, of "the [J]udgment in full, together with costs and interest on such [J]udgment." On June 8, 2021, the Court approved a Stipulation and Proposed Order filed by the parties, thereby staying execution on the Judgment. (*See* D.I. 190).

Thereafter, on September 23, 2021, the Court granted in part and denied in part Xcoal's Motion to Amend Judgment to Include Pre-Judgment and Post-Judgment Interest Pursuant to Rule 59(e) and granted Xcoal's Motion for Attorney's Fees and Costs. (*See* D.I. 193).

Accordingly, **IT IS HEREBY ORDERED AND ADJUDGED** as follows:

1. The Judgment (D.I. 167), including, *inter alia*, the judgment entered therein in the amount of **\$6,814,105.30** against Defendants Bluestone, SCC, and Governor Justice, jointly and severally, and in favor of Xcoal, remains in full force and effect and hereby is amended to increase, in accordance with the Court's Memorandum Order dated September 23, 2021 (D.I. 193), the amounts awarded to Xcoal and against Defendants Bluestone, SCC, and Governor Justice, jointly and severally, as follows:

- (a) For pre-judgment interest in the total amount of **\$1,498,695.16**;
- (b) For attorney's fees and costs in the total amount of **\$1,692,482.62**; and
- (c) For post-judgment interest in the per diem amount of 0.00000164% per day on the total amount of **\$10,005,283.08** (i.e., the judgment amount of **\$6,814,105.30** in paragraph 9 of the Judgment, pre-judgment interest in the amount of **\$1,498,695.16**, attorney's fees and costs in the amount of **\$1,692,482.62**), and, with such post-judgment interest running from April 14, 2021 until the Judgment (D.I. 167), as herein amended, is fully satisfied, compounded annually.

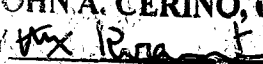
2. To the extent that the total amount awarded to Xcoal in the Judgment, as herein amended, exceeds the maximum penal sum of the Bond (i.e., \$8,176,927.00), Defendants may

receive a stay of execution with respect to such excess amount only upon providing a second bond or other security, as to be approved by the Court.

3. The Court directs the Clerk to immediately enter this Amendment to the Judgment, which constitutes the entry of final judgment in this matter.



HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT JUDGE

CERTIFIED: APR 29 2022
AS A TRUE COPY:
ATTEST: APR 29 2022
JOHN A. CERINO, CLERK
BY  Deputy Clerk